

**UNITED STATES DISTRICT COURT
OF MASSACHUSETTS**

SUVERINO FRITH, SAVANNAH KINZER,
CEDRICK JUAREZ, FAITH WALSH,
MACKENZIE SHANAHAN, COREY
SAMUEL, JENNIFER OSAYANDE,
BRITNEY IFEBOHR, KANAYA RYLAND,
KIRBY BURT, LEAVER MICHEL, ABDULAI
BARRY, LINDSAY VUONG, SAMANTHA
BERIMBAU, SUEPRIYA ADHI, ALICE
TISME, CAMILLE TUCKER-TOLBERT,
CHARLES THOMPSON, ANA BELÉN DEL
RIO-RAMIREZ, LYLAH STYLES, KAYLA
GREENE, SHARIE ROBINSON, KELLY
RIGLER, JUSTINE O’NEILL, SARITA
WILSON, and YURIN LONDON, individually
and on behalf of all others similarly situated,

Plaintiffs,

v.

WHOLE FOODS MARKET, INC. and
AMAZON.COM, INC.,

Defendants.

CIVIL ACTION NO. 1:20-cv-11358-ADB

DEFENDANTS’ MOTION TO DISMISS PLAINTIFF’S AMENDED COMPLAINT

Pursuant to Federal Rule of Civil Procedure 12(b)(6) and Local Rule 7.1, Defendant Whole Foods Market, Inc. (“Whole Foods”), by and through its undersigned counsel, hereby moves to dismiss in its entirety the Amended Complaint of Plaintiffs Suverino Frith, Savannah Kinzer, Cedrick Juarez, Faith Walsh, Mackenzie Shanahan, Corey Samuel, Jennifer Osayande, Britney Ifebohr, Kanaya Ryland, Kirby Burt, Leaver Michel, Abdulai Barry, Lindsay Vuong, Samantha Berimbau, Suepriya Adhi, Alice Tisme, Camille Tucker-Tolbert, Charles Thompson, Ana Belén Del Rio-Ramirez, Lylah Styles, Kayla Greene, Sharie Robinson, Kelly Rigler, Justine O’Neill, Sarita Wilson, Yurin London, and Haley Evans (collectively, “Plaintiffs”). Specifically, Plaintiffs

failed to exhaust their administrative remedies before the U.S. Equal Opportunity Commission and, therefore, they cannot pursue their claims under Title VII of the Civil Rights Act of 1964 (“Title VII”) before this Court. Further, the Amended Complaint fails to state a viable claim for race discrimination (Count I) or retaliation (Count II) under Title VII.

Accordingly, for the foregoing reasons and those set forth in the accompanying Memorandum of Law, Whole Foods respectfully requests that the Court enter an Order dismissing the Complaint in its entirety with prejudice pursuant to Federal Rule of Civil Procedure 12(b)(6).

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(d), Whole Foods respectfully requests oral argument on this Motion.

Dated: August 14, 2020

WHOLE FOODS MARKET, INC.
By counsel,

/s/ Sarah J. Butson

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Attorneys for Defendant Whole Foods Market, Inc.

LOCAL RULE 7.1 CERTIFICATION

Counsel for Whole Foods hereby certifies that they conferred with counsel for Plaintiffs and have attempted in good faith to resolve or narrow the issues raised in this Motion.

/s/ Sarah J. Butson

Sarah J. Butson

CERTIFICATE OF SERVICE

I, Sarah J. Butson, hereby certify that on the August 14, 2020, a true and correct copy of the foregoing Motion to Dismiss Plaintiffs' Amended Complaint was served via the Court's ECF filing system on the following:

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Attorneys for Plaintiffs

/s/ Sarah J. Butson

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